



An
Bord
Pleanála

Inspector's Report

ABP-307630-20

Development	To retain and complete the widening of an existing entrance and associated works to facilitate the extraction of timber from a forestry plantation.
Location	Attimanus, Killnagross, Co. Leitrim.
Planning Authority	Leitrim County Council
Planning Authority Reg. Ref.	19279
Applicant	Forest Clover 1 Ltd.
Type of Application	Retention Permission
Planning Authority Decision	Grant Permission
Type of Appeal	Third Party
Appellant(s)	Adrian & Pauline McCrann
Observer(s)	None
Date of Site Inspection	28 th September 2020
Inspector	Máire Daly

1.0 Site Location and Description

- 1.1. The subject site is located in the townland of Attimanus in southern County Leitrim approximately 10km north-east of Carrick-on-Shannon. The village of Kilnacross is approximately 1km to the north-west of the site. The surrounding area comprises a drumlin type landscape with agricultural fields, sporadic housing and forestry plantations.
- 1.2. The site consists of an existing partially constructed forestry entrance off the public road, which serves a narrow-overgrown access track that continues a short distance into the plantation. The entrance area has a loose stone/ gravel surface.
- 1.3. The public road has a straight alignment and accommodates access to a number of one-off dwellings, with two houses within 60m of the forestry access road entrance. In total there are five dwellings located along a 550m stretch of the public road, one to the immediate north of the forestry access point and four to the south. A narrow stream runs along the eastern boundary of these residential properties, this stream connects to the forestry site at two points via connecting streams/drains. There is an agricultural field access directly opposite the subject forestry entrance.

2.0 Proposed Development

- 2.1. Permission is sought for the following:
 - Retention of existing entrance to forestry plantation, entrance roadway and twin pipe drainage channel;
 - Permission for widening of existing entrance road to 5m;
 - Permission for removal of existing hedgerow and vegetation to achieve 160m sightlines;
 - Permission for upgrading of existing forestry entrance and 75mm deep drain to be provided 2.5m from road edge;
 - Associated works.

3.0 Planning Authority Decision

3.1. Decision

The Planning Authority decided to grant permission subject to seven conditions, most of which are of a standard nature:

1. Compliance with plans and particulars.
2. €10,000 bond for restoration and repair of any damage caused to the public road network.
3. Surfacing of 40m of adjoining public road.
4. Completion in accordance with '*technical standards for the Design of Forest entrances from Public Roads*'.
5. Sightlines and hedgerow maintenance.
6. Pollution control.
7. Road warning signage.

3.2. Planning Authority Reports

3.2.1. *Planning Reports*

There are two planning reports on file, the first (dated February 2020) recommended further information be sought, the second report of the Planning Officer (June 2020) reflects the decision of the Planning Authority and recommends a grant of permission.

The Planning Officer notes the following in their first report (Feb 2020):

- the standards as outlined in the Department of Agriculture, Food and Marine and Department of Transport, Tourism and Sport document '*Technical Standards for the Design of Forest Entrances from Public Roads*' (revised July 2019) regarding entrances within 50m. An agricultural access point is located directly opposite the forestry entrance and a vehicular access point serving an existing dwelling is located on the opposite side of the road within

50m of the proposed site entrance. The area planner also noted that only one nearby dwelling was indicated on the submitted site layout plan as submitted.

- In February 2020 the Planning Authority requested 8 points of further information. In summary these related to:
 - the need for the applicant to demonstrate evidence of compliance with the Departments' technical standards (July 2019);
 - Request for revised site layout plan to show the location of all dwellings and access points in the vicinity of the site;
 - Request for a 'statement of screening' for Appropriate Assessment. The area planner stated that the report submitted under P.A. Ref. 14/111 was in relation to a different site and could not be relied on for the examination of the current application site.
 - The extent of the land to be served by the entrance i.e. the entire landholding outlined in blue, and the full extent of the lands in the applicant's ownership outside of the current site.
 - Details of all other forestry entrances to the current site and why these cannot be utilised to serve the lands.
 - Information in relation to the number and type of vehicles that would be utilising the proposed entrance.
 - Details as to why the entrance permitted under P.A. ref 14/111 is no longer suitable.
 - Invitation to respond to the third-party submissions received on the application.
- The applicant's response to further information received April 2020 was considered to be significant and therefore merited revised public notices. The applicants were also advised that their response to item no.1 above (compliance with technical standards) was not sufficient and did not address the issue. The applicants responded in more detail to the concerns under item no.1 in May 2020. In response to point 5 above the applicant stated that the only other forestry entrance to the site is on the eastern boundary in the

townland of Meelick and is over 1km away from the proposed access, therefore there would be an increased risk of environmental damage and to highway safety without the proposed new entrance.

- The area planner in her report examines the previous history on site and notes the details outlined under the Section 5 referral previously determined by the Board (ABP 3015120-18). The area planner states that in considering the non-compliance with the recommended technical standards in relation to the 50m desirable minimum distance between entrances on the opposite side of the road, that she was aware that there was always an agricultural entrance at the current forestry entrance for which retention is currently sought and that this entrance may or may not have been used in the past to service the forestry plantation. The area planner then goes on to state that this entrance would have predated the permission and subsequent construction of the dwellings nearby (within 50m of the forestry entrance for which retention is sought). The area planner also states that the existing entrance (the subject of the current appeal) at this location reduces the need for a second access along this particular stretch of road, therefore reducing the environmental impacts. She also states that she is satisfied with the applicant's justification for not developing the entrance under the previously granted permission P.A. Ref. 14/111.
- The area planner states that she is satisfied that while the proposal is a departure from Section 4 of the Technical Standards, the use of the existing entrance to be retained substantially satisfies the requirements of the Technical Standards document as a whole, as it will negate the future need for a further access point along the road, will have environmental benefits in terms of reduced environmental impacts and can achieve the required sightlines and raises no identifiable engineering issues. A grant of permission was subsequently recommended.

3.2.2. Other Technical Reports

- District Engineer, Roads – two responses were received, the first to the consultation on the original application and the second on foot of further information received:

1. Report received from District Engineer on 28th January 2020. The report recommends that the application be refused for the following reasons:

It is contrary to the DAFM & DTTAS Technical Standards for the 'Design of Forest Entrances from Public Roads'.

1) This entrance is opposite a field entrance and a house, which has a boundary wall, which may be impacted by the harvesting and haulage activities'.

2) The applicant is requested to construct the entrance at the agreed location as per granted planning application PL 14/111.

2. Email response received in response to further information received, dated 19th June 2020, which stated that the proposal '*does not represent a hazard to the road user regarding sight distances*'.

3.3. Prescribed Bodies

None.

3.4. Third Party Observations

- 10 no. observations were received on the original planning application. 9 of those received were from Councillors within Leitrim County Council which included: Cllr. Des Guckian, Cllr. Pdraig Fallon, Cllr. Brendan Barry, Cllr. Paddy Farrell, Cllr. Finola Armstrong McGuire, Cllr. Ita Reynolds Flynn, Cllr. Thomas Mulligan, Cllr. Enda McGloin and Cllr. Sean McGowan. The remaining one observation was from the current appellant.
- 2 no. further submissions were then received on foot of further information, one from Councillor Des Gukian (who also made a submission on the initial application) and one from the current appellants Adrian and Pauline McCrann.

The concerns raised at this stage were similar to those identified in the grounds of appeal outlined below.

4.0 Planning History

On site:

- P.A. Ref 14/111 – 2014 – Permission granted to the 5th Irish Forestry Fund Plc for construction of 1 no. Bell Mount Entrance with access road to facilitate access into existing forestry plantations for the removal of timber and all ancillary works.

This application relates to only a small section of the current site under appeal (adjacent to the public road). As part of this application further information was requested by the planning authority which sought an explanation as to why a nearby entrance (now the subject of the current appeal) could not be upgraded and utilised in lieu of the proposed new entrance (proposed under P.A. Ref. 14/111). The applicant justified the requirement for the new entrance at the time, stating that the existing access is an agricultural entrance that is not necessarily suited to timber extraction and that the new entrance was required from a managerial point of view at the position indicated and also as the proposed access road would be 90 degrees with the existing public road. The applicant stated that in the event of a grant of planning permission that they would be willing to accept a condition that the existing mentioned entrance be decommissioned/closed off prior to the construction of the new entrance. Condition no. 6 of the schedule of conditions on the grant of permission stated the following:

The existing entrance to the forestry plantation, as shown on the site layout plan submitted on 17th October 2014, shall be permanently closed off prior to the proposed new entrance becoming operational. Fencing backed with native hedgerow systems shall be installed.

Reason: In the interest of traffic safety.

Section 5 Declaration

- ABP 3015120-18 – 2019 – Leitrim County Council sought a Section 5 declaration on the current site, the decision on the above stated ‘*The material widening of an existing entrance to facilitate the extraction from a forestry*

plantation at Attimanus, Kilnagross, County Leitrim is development and is not exempted development.

Enforcement

- P.A. Ref. E-18-013 – 2018 - Unauthorised widening of access. The current application P.A. Ref. 19/279 arises from this enforcement case.

Licence applications

- Ref. TP-17-28 – 2017 - a licence application was made to the Department of Agriculture, Food and Marine under the Forest Road Scheme for the forest road entrance that is now the subject of this application. The Planning Department of Leitrim County Council were invited to make observations in a letter from the Department received 02nd June 2017. While no response was received from the Planning Department on the licence application, the Roads Department of Leitrim County Council reverted stating that they had no objection to the proposal subject to the addressing of certain issues relating to sightlines, drainage, design of the entrance, weight restrictions and the need for a bond to cover any resultant damage to the road from the timber haulage activity.

Application on site opposite proposed entrance (Appellants' site):

- P.A. Ref. 03/229 – 2003 – Permission granted for a two-storey dwelling, garage and new entrance off public road.

5.0 Policy Context

5.1. Development Plan

The operative Development Plan is the Leitrim County Development Plan 2015-2021 and the following sections and policies apply:

5.1.1. Section 4.7.3 Forestry

Policy 63 - *It is the policy of the Council to require adherence to the Guidelines published by the Department of Agriculture, Food & the Marine, Forest Service.*

This section of the Plan states that *'the Council has no means of requiring strict adherence to these guidelines except in cases where planning permission is required. On assessing planning applications for forestry, regard shall be had to the extent of forestry in the immediate area and to the social, environmental and economic impacts arising from such applications'*.

Policy 64 - *It is the policy of the Council to require Forestry Management Plans where afforestation is subject to the planning control process. These management plans will, inter alia, identify haul routes for the extraction of timber.*

This Section also states that *'the Council will seek to recover the cost of damage to public roads from the developer, landowner, and/or the transport operator through available legal procedures.*

5.1.2. Section 5.4.7 Forestry

This Section states that *'forestry schemes should not interfere with traffic sight lines along public roads. Adequate measures should be taken so as to ensure that no damage occurs to public roads, culverts, drainage or bridges as a result of planting, maintenance or harvesting programmes.*

Transportation of felled timber from a forestry plantation must be carried out without causing nuisance to other road users. In certain circumstances, the public road may be deemed by the Council to be inadequate to carry the size of the loads proposed. The Council will include a condition requiring a contribution towards the maintenance and/or upgrading of the road and may specify alternative routing of these roads.

Before commencement of tree felling and transportation of felled timber, the developer and/or transport operator will be required to submit a proposed transport scheme showing details of the location of the activity, volume of produce to be transported, details of vehicles to be used, routes to be used and the timing of the operations. The implementation of the 'Good Practice Guide for Managing Timber Transport', produced by the Forest Industry Transport Group, will be supported by the Council, as appropriate'.

5.2. National Guidance

5.2.1. **Regional Spatial and Economic Strategy for the Northern and Western Region 2020 – 2032**

Section 5.9 Forestry and Woodland

Regional Policy Objective 5.24 - *A Regional Fora to be established to set out a framework for sustainable afforestation across the region that enables government policy to grow the sector and that addresses community concerns and perceptions.*

5.2.2. **Technical Standard for the design of Forest Entrances from Public Roads**

produced by The Department of the Agriculture, Food and the Marine (DAFM) and Department of Transport, Tourism and Sport (DTTAS) (Issued July 2019).

Section 4 of these guidelines states the following:

In designing a forest road system and forest entrance, the designer must take care to ensure that it causes least impact to the public road network. Forest road entrances should be kept to a minimum and where multiple public roads can provide access, junctions should be located wherever possible on the safer, better quality public roads while avoiding, where possible, national roads and strategic regional roads. A balance needs to be obtained between the strength and the activity level on the public roads, while having least negative impact on the safe use of the public road network. All forest entrances shall be sited so as to have the least possible impact on the public road network and designed to maximise safety during use.

An entrance to a forest road should not be constructed directly opposite any other access to the public road (e.g. not opposite a dwelling) or opposite a road junction. Where there are multiple access points along a stretch of public road there should be a desirable minimum distance of 50 m between entrances on opposite sides of the road and a desirable minimum distance of 100 m between entrances on the same side of the public road. If it is necessary to locate the forest road entrance within the above desirable minima, then the Designer of the entrance shall record the fact that this has been undertaken in the design and the corresponding reasons why it cannot be appropriately located must be given as part of the application for permission /

consent. Also, the proposals must be developed to minimise the risks associated with the location of the forest entrance.

Section 7 of the guidelines outline cases where departures from the technical standards may be considered, it states the following:

There will be locations where the requirements in sections 4, 5 and 6 cannot be achieved due to factors such as restricted road frontage or public road alignment. In these cases alternative access to the forest should be sought, where possible. Where it is not possible to relocate the forest entrance, it may be permitted in exceptional cases for alternative solutions to be used.

In these exceptional situations, the Road Authority may be prepared to agree to a Departure from the Technical Standard where the standard, including permitted Relaxations, is not realistically achievable. Forest entrance Designers faced by such situations and wishing to consider pursuing this course shall discuss any such option at an early stage in design with the Road Authority. Proposals to adopt Departures from the Technical Standard must be submitted by the Designer to the Road Authority and formal approval received BEFORE incorporation into a design layout.

The Designer shall record the fact that a Departure has been used in the design and the corresponding basis for it. Departures shall be endorsed by the Designer responsible for the scheme and shall be submitted as part of the consent process. The Designer shall report all Departures incorporated into the design (including their basis) as part of the application process for permission / consent for the forest road entrance.

A possible solution for such sites involves the application of appropriate traffic management to control traffic movements at the substandard entrance/exit for all hours of entrance/exit use/operation and for the access to remain closed at all other times. Depending on the location, this may or may not be acceptable to the Local Authority.

Relaxations and Departures will be assessed in terms of their effects on the economic worth of the scheme, the environment as well as Road Safety and Engineering.

5.3. **Natural Heritage Designations**

None relevant.

5.4. **EIA Screening**

Having regard to the nature and scale of the proposed development and the absence of any significant environmental sensitivity in the vicinity there is no real likelihood of significant effects on the environment arising from the proposed development. The need for environmental impact assessment can, therefore, be excluded at preliminary examination and a screening determination is not required.

6.0 **The Appeal**

6.1. **Grounds of Appeal**

The third-party appellants, Adrian and Pauline McCrann, have appealed the decision to grant permission. The grounds of appeal can be summarised as follows:

- The appellants home is located almost directly across the public road from the proposed development site and they have serious concerns with regard to the loss of residential amenity by way of noise, disturbance and damage to the road and potentially their boundary wall that will result as a consequence of the development day and night, seven days a week. The appellants are also concerned about the impact the forestry activity will have on the condition of the public road outside their property.
- The applicants began constructing the entrance without planning permission in 2018.
- The existing forestry entrance for which retention is sought was previously the location of a cattle crush and was used for agricultural purposes and was never an entrance for forestry purposes (written letter confirming same has been submitted by the son of the former landowner).
- The planning permission granted under P.A. Ref 14/111 for an entrance north of the appellants' home would have been more appropriate to develop and the appellants would support an entrance at this location.

- An existing entrance to an agricultural field exists directly across from the appeal site.
- Concerns raised regarding inconsistencies in relation to the description of the development and the public notices issued.
- Condition no. 4 of the attached to the grant of permission is not implementable as it states that the entrance junction shall be completed in accordance with the publication '*Technical Standard for the Design of Forest Entrances from Public Roads*' (2019). The proposed development does not comply with the standards which is also required under Policy 63 of the Leitrim County Development Plan 2015-2021. The planning authority in permitting this development have therefore materially contravened their own development plan.
- It is clearly stated in the report from the council's reporting engineer (dated 29th January 2020) that the proposed development should be refused on the basis that it does not comply with the Technical Standards and that the applicant be advised to relocate the entrance to that permitted under P.A. Ref. 14/111.
- No conditions have been attached in relation to the type of vehicles that can use the entrance or timeframes for use, thus impacts on the appellants residence have not been mitigated in any way. The appellant urges the Board to impose conditions to restrict its use to non-articulated vehicles and restrict hours of operation to normal working hours.
- Further Information submitted on 20th April 2020 states that there is an existing forest entrance to the east of the landholding in the townland of Meelick, however the applicants have not stated as to why this entrance cannot be used other than it would result in long forwarding distances and cause further environmental damage. The appellant also states that they have been informed of another entrance 400m south of the proposed entrance which also allows access to the landholding.

6.2. Applicant Response

The applicant's response to the grounds of appeal can be summarised as follows:

- The applicant states that they intend to use this forest entrance solely to carry out periodic forestry operations at the end of the forest's rotation and subsequent rotations. The existing forest on site has expected thinning operations at 15-18 years and clear fell expected at 28-32 years. The forestry was originally planted in 2000.
- The appellants' dwelling site was originally sold to them by the previous owners of the forestry site, The Fifth Irish Forestry Fund Plc in 2002.
- The applicant states that typically a thinning operation will take place over a period of 8-12 weeks, with the next planned harvest activity 3-5 years later.
- The applicant states that they liaised with the local authority's road engineers and also that contact was made with the Mr McCrann, who confirmed via email that his primary concerns were the protection of his boundary wall and also concerns with regard to water drainage. The applicant states that consultation with Council engineers was undertaken to discuss the installation of a new drainage pipe.
- Prior to the commencement of works no objection was raised by either the local authority or the appellant and when an objection was raised works were stopped pending clarification.
- The applicants state that the entrance, the subject of this appeal, was present previously and that this is evidenced in the Google Street View image dated June 2009 which was submitted with their response. The applicant states that this entrance was used as an entrance to the forestry plantation from the start of the use on site and predates the other entrances to dwellings on the road in this vicinity.
- The applicant states that due to the delays experienced to date the silvicultural plan for this forest has had to be amended, as the timeframe in which to carry out a 1st thinning operation has been lost.

- They further state that it is unavoidable that at some point in the future, a forest entrance will be necessitated to this part of the forest plantation. The applicant states that alternative entrances will also be utilised but are insufficient to cater for the entire forest due to the distances involved within the forest. An entrance at the proposed location is necessary for the correct management of the forest and any ruling that closes this entrance is to deny the forest owner the use of its pre-existing entrance which does not appear to be an equitable outcome.

6.3. Planning Authority Response

The Planning Authority's response to the grounds of appeal can be summarised as follows:

- Change in Development Description – as part of the further information response, the applicant referred to the forest road associated with the entrance which has not been fully constructed. As such the planning authority were of the opinion that, while relatively minor, there is an element of 'completion' required and as such the wording of the description of the proposal was amended to reflect this and revised public notices were submitted to also reflect this.
- Condition no. 4 – the planning authority states that the '*Technical Standard for the Design of Forest Entrances from Public Roads*' (2019) states that '*Relaxations and departures will be assessed in terms of their effects on the economic worth of the scheme, the environment as well as Road Safety and Engineering*'. The use of the existing entrance (the subject of this appeal) will negate the need for further access points onto the public road, will have reduced environmental impacts and raises no identifiable engineering issues. On the basis of the above, the planning authority are satisfied that while the proposal is a departure from Section 4 of the Technical Guidance, the entrance to be retained substantially satisfies the requirements of the technical standards document. The planning authority further states that the guidance referred to in condition no. 4 not only addresses 'junction locations' but other areas such as 'sight lines' and 'drainage of entrances' which remain

applicable to the application at hand also. As such the condition is both relevant and enforceable.

- No condition attached regarding vehicle types or timeframes for using entrance – the planning authority would not normally attached conditions limiting the type of vehicles or timeframe which forestry entrances can be used. However, if An Bord Pleanála consider the inclusion of such conditions appropriate/necessary the planning authority would have no issue with their inclusion.
- The planning authority draw attention to the Section 5 Declaration from ABP and reference to the Senior Planner's report on same case which states that even though it appears that the existing entrance may have facilitated the planting of the forestry and have been used in relation to forestry activity, this cannot be definitively proven.
- Section 4 of the technical guidance states that '*a forest road should not be constructed directly opposite any other access to the public road (e.g. not opposite a dwelling) or opposite a road junction*'. The Planning authority note that the fact that the forest entrance is opposite an entrance to a field does not create an additional traffic hazard as this 'field entrance' would not be considered to be heavily/frequently trafficked. The forestry entrance is not opposite a dwelling or a road junction.
- The technical standards state that '*there should be a desirable minimum distance of 50m between entrances on opposite sides of the road*'. The planning authority state that in considering this they are conscious that there was always an agricultural entrance at this location, which may or may not have been used in the past to service the forestry plantation, this entrance preceded the permission and construction of the dwelling.
- From a planning perspective the use of an existing access point in lieu of the development of a new access point whenever possible is the preferable option and this was the reason the use of the existing agricultural entrance would have been suggested under P.A. Ref. 14/111. The planning authority accepts the applicant's justification as to why the previous permission was never developed, the applicant stated that further assessment took place

since 2014 and that it was considered the entrance, which is the subject of this appeal, is now the most suitable entrance.

- The planning authority contends that the proposed development is in accordance with Policy 63 and that no material contravention has occurred.
- The planning authority states that the district engineers report (which recommended refusal) was taken into consideration in the assessment of the application and the proposal was considered to be a departure from Section 4 of the technical guidance document as opposed to not complying with it and as such did not warrant a refusal.
- The planning authority are of the opinion that having regard to the nature/purpose of the access, the use of which will be intermittent and limited by its very nature, that the proposed development would not seriously injure the residential amenities of the area.
- Regarding the concerns raised in relation to damage to the road, conditions no.2 and no.3 address this by means of a bond and the requirement to resurface 40m in both directions on the adjoining public road.

6.4. Observations

6.4.1. None received.

7.0 Assessment

7.1. Having examined the application details and all other documentation on file, including the submissions received in relation to the appeal, and inspected the site, and having regard to relevant local/regional/national policies and guidance, I consider that the main issues in this appeal are as follows:

- Previous and current use of the land/entrances.
- Adherence to Guidelines and Assessment of Alternatives
- Impacts on Residential Amenity and Traffic
- Appropriate Assessment

7.2. Previous and current use of the land/entrances

- 7.2.1. I note as part of the information submitted with the application and also the planning history on the site (including the information submitted as part of the previous Section 5 Declaration ABP 3015120-18) that reference is made to the existing entrance (for which retention is sought) facilitating the planting of the forestry on site and use for forestry related activities. The applicant claims that the initial use of the entrance for forestry activity came into effect circa. 2000 when the site was bought, and afforestation initially occurred, and that this use was in place prior to any residential development occurring along the public road (circa. 2003).
- 7.2.2. The information provided regarding the use of the entrance under appeal is conflicting and often confusing. For example, as part of the appeal documents, the appellants submitted a letter from the son of the former landowner (appeal site) which states that he recalls the entrance to the forestry lands being located at the entrance proposed under application P.A. Ref 14/111 and that the entrance which is currently proposed for retention was in fact a cattle crush and was used for agricultural purposes.
- 7.2.3. The current applicant previously applied for permission to access the same landholding for forestry thinning and harvesting purposes under P.A. Ref. 14/111. As part of this previous application he referred to the entrance currently under appeal as unsuitable for use as an access point. The planning authority required the applicant at the time to justify as to why this entrance (the subject of the current appeal) could not be used to access the forestry plantation. The applicant justified the need for a new entrance at the location indicated under P.A. Ref. 14/111 (approx. 150m to the north) for managerial reasons, as it would have allowed better servicing and harvesting of the forest property. The applicant at the time, represented by Seppi Hona of Forest Enterprises Limited in correspondence dated 1st October 2014, state that the existing entrance (i.e. the entrance the subject of this appeal) '*was an agricultural entrance that is not necessarily suited to timber extraction*'. The proposed entrance under P.A. Ref. 14/111 was subsequently granted permission by the planning authority but the Board should note that this permission was never acted upon and has since expired (Notification of Grant of Permission dated 17th December 2014).

- 7.2.4. As can be seen from the above information there would appear to be conflicts in the information submitted on the current application and the previous planning history on site. Following an investigation of the available historical aerial photography from the Attimanus townland area (source: OSi 1995 series black & white, and orthophotography from both the 2000 and 2005 series) it would appear that an agricultural entrance did exist at this location (location of the current appeal site entrance). It is unclear still however if this entrance was used to access the land for afforestation purposes in the early 2000s.
- 7.2.5. Although the previous use of the entrance has some bearing on the current appeal, the main issue to be considered here is whether or not the current use of the access as a commercial entrance for the purposes of increased forestry activities is suitable or not. The main determinant of this, is to query whether the entrance is compliant with current policy and current technical guidance, and what impact the proposed entrance may have on the surrounding land uses. A detailed assessment of same is carried out in the sections below.

7.3. **Adherence to Guidelines and Assessment of Alternatives**

- 7.3.1. Policy 63 of the Leitrim County Development Plan states the following '*It is the policy of the Council to require adherence to the Guidelines published by the Department of Agriculture, Food & the Marine, Forest Service*'. The guidelines that apply in this case are the Technical Standard, Design of Forest Entrances from Public Roads, July 2019.
- 7.3.2. In their response to the further information request issued by the planning authority, the applicant acknowledged that the access does not comply with Section 4 of the Technical Standards document but outlined that the document does allow for circumstances where departures from this may be considered. In assessing the applicant's response, the planning authority noted that the forestry entrance could achieve adequate sightlines, in accordance with the technical standards, they also noted that by using an existing entrance to access the forestry it would negate the need for a new entrance and would have less environmental impacts in terms of loss of hedgerow etc. While I acknowledge that there would be certain benefits to using the existing entrance, I also note that one of the main stipulations in the Technical Standards has not been met. This is in relation to the desirable minimum distance of

50m between entrances on the opposite sides of the road. Directly opposite the forestry entrance is an agricultural field access and within 25m of the proposed entrance to the northwest is a residential property entrance. The technical guidance clearly states that '*If it is necessary to locate the forest road entrance within the above desirable minima (50m), then the Designer of the entrance shall record the fact that this has been undertaken in the design and the corresponding reasons why it cannot be appropriately located must be given as part of the application for permission / consent*'. In relation to this stipulation, I also note that the District Engineer in his report dated 28th January 2020 recommended that the proposal should be refused as the development would be contrary to the Departments' Technical Standards (2019) and also due to the proximity of the entrance to an existing field access and dwelling house entrance and the possible damage that may result on the boundary wall of the property from harvesting and haulage activities. The district engineer also requested the entrance be constructed at the agreed location as per granted planning application P.A. Ref. 14/111.

- 7.3.3. It is not the purpose of this appeal to assess the merits of the previous application P.A. Ref. 14/111, however it is worth noting that the entrance proposed under the previous application P.A. Ref. 14/111 was not assessed under any technical standards as the initial standards were not published until December 2015. The current technical standards document, dated July 2019, is an updated version which contains recent legislative and TII standard references. The appellants argue under their *Grounds of Appeal* that an entrance at the location approved under P.A. Ref. 14/111 would have much less impact upon their residential amenity. While this may be true, other considerations must also be taken into account when considering alternatives. The previous grant of permission under P.A. Ref 14/111 has now expired and any new application in the vicinity would have to show adherence to the Departments' Technical Standards (2019). The Board should note for reference that the entrance proposed under P.A. Ref. 14/111 was less than 20m from the junction on the opposite side of the local road. This junction provides access to three properties, two of which are agriculture in nature and one domestic dwelling, therefore this previous entrance if assessed against the 2019 Technical Standards would also present issues.

- 7.3.4. While it can be debated that the entrance, the subject of this appeal, may have been used previously for accessing the forestry grounds, the intensification of the entrance and enlargement into a commercial scale access may not be considered suitable at this location. The entrance if approved would be in place for a long duration of time and although acknowledged that it may be used only intermittently every 3-5 years, it will still present a significant increase in traffic at the location of the new entrance during this time. I note the applicant has not submitted exact details of the operations that would be involved, for instance the type and number of vehicles, average frequencies involved, or direction of travel. In addition, the applicant has failed to detail how much of the landholding will be serviced from this proposed entrance. I note that as part of the further information submitted the '*Overall site location map*' dated April 2019 (Drawing no. 5975 P-000-2) details a second entrance to the lands on the eastern boundary of the landholding in the townland of Meelick. The only justification given by the applicant for not using this alternative entrance was due to the long forwarding distances that would be required to access the entirety of the site from this access. It is not clear what relationship, if any, the proposed access and that on the eastern corner of the landholding have with one another or how much of the landholding will be harvested via the proposed entrance.
- 7.3.5. I also note the appellants' reference to another suspected access point on the south eastern boundary of the landholding, approximately 400m south along the public road. This entrance and access road are outside of the current landholding and have not been mentioned by the applicant, as such this entrance is only speculative in nature and further consideration of this has been ruled out at this time.
- 7.3.6. Section 7 of the Technical Guidelines is titled '*Departures from Technical Standards*' and states the following '*Where it is not possible to relocate the forest entrance, it may be permitted in exceptional cases for alternative solutions to be used*'. In the case of the current application the landholding has a 300m stretch of road frontage along the public road and therefore may have other options for access along this boundary.
- 7.3.7. Taking all the above into consideration, I do not believe that the applicant has sufficiently justified the location of the proposed entrance at this location, other than that there was an existing access point there previously. On site inspection it was noted that there was a short narrow access track travelling northeast from the

entrance into the forestry but this was in poor condition and did not appear to have been used at any time in the recent past due to its overgrown nature. The 300m stretch of public road along the western boundary of the landholding is straight in alignment and provides good opportunity at numerous points to achieve the required sightlines of 160m in each direction for a commercial forestry entrance. It is therefore my opinion that alternatives exist which would provide entrance to the lands and which would also comply with the desired Technical Standards (2019).

7.4. Impacts on Residential Amenity and Traffic

- 7.4.1. One of the appellants' grounds of appeal refers to the impact that the development will have on the residential amenities currently enjoyed by them at their property in this rural location and additionally the impact that the development will have on the public road and surrounding road network.
- 7.4.2. I will first consider the second point above regarding the impact on the road network. I note that conditions no. 2 and no.3 of the notification of decision to grant permission from the planning authority adequately address any impacts that may occur on the public road through the imposition of a €10,000 bond on the developer and also additional road surfacing of 40m from the entrance along the adjoining public roadway in each direction. The district engineer in his correspondence on 28th January 2020 and the subsequent email response received on 19th June 2020 in response to further information received raised no concerns with regard to the capacity of the carriageway to accommodate haulage vehicles. I would consider the aforementioned conditions mitigate any future damage that may occur to the public carriageway in the vicinity of the development site and see no reason to assess this issue any further at this stage.
- 7.4.3. In addition to the above the appellants also raise concerns regarding the impact on their residential amenity. The appellants have stated in their appeal that they had no issue with the previous application under P.A. 14/111 which saw a new forestry entrance proposed circa. 80m to the north and that their main concern with the current application is the location of the entrance within such a close proximity to their property and the possible impact that haulage activity may have on their residential amenity.

- 7.4.4. I note as part of the response to the local authority's further information request (received on 20th April 2020) the applicant submitted details regarding the '*Nature of Vehicles and Traffic Movements to and from the site*'. In this, the applicant outlines the approximate duration of the construction period (2 weeks) and vehicle movements (4-6 lorries arriving each day) to complete works. The applicant then gives operational period details stating that the thinning operations would take approximately 2-3 months, stating harvesting machinery and timber lorries would be entering and exiting the site during this period. Following this the site would not be active for another 3-5 years until the next thinning operation which again would take approx. 2-3months, this process would be repeated every 3-5 years.
- 7.4.5. The applicant has given no details of the nature of the vehicles proposed for use during the operation phase, nor the number or frequency of traffic movements on site during busy periods. Section 5.4.7 of the Development Plan states that '*prior to tree felling and transportation of felled timber, the developer and/or transport operator will be required to submit a proposed transport scheme showing details of the location of the activity, volume of produce to be transported, details of vehicles to be used, routes to be used and the timing of the operations*'. While I acknowledge that the details of the traffic movements would be contained in this scheme there is still a significant lack of information in the current proposal to allow for a complete assessment of the impact of the entrance at this location to be carried out.
- 7.4.6. In addition to the above, I note that a turning area has not been provided within the curtilage of the site. When examining the previous application on site under P.A. Ref. 14/111, I noted that an additional turning area off the main entrance road was provided to cater for articulated trucks, however a different approach appears to have been taken in the current application. It is considered that the traffic turning movements generated by the proposed development would tend to create serious traffic congestion at the junction to the site and the public road and may endanger public safety by reason of traffic hazard. I would again consider there to be a lack of information with regard the types of vehicles proposed to be used on site and also the manoeuvrability of these vehicles.
- 7.4.7. Following a site inspection, it was evident how close the proposed forestry entrance was to the appellants' property. The front boundary wall of the property is visible from the entrance and directly across from the entrance is an access point to an

agricultural field. While I would not consider the forestry activity proposed or future vehicular movements would have a significant negative impact on the access and use of the agricultural field, the impact on the residential amenity of the adjoining property needs further consideration. While the impacts from the development, including any vehicular movements as a result of thinning, clear felling and other forestry activity may be considered intermittent, the duration of the operations as stated by the applicant may extend up to 3 months. When examining the impacts of these activities at this rural location, within such close proximity to a residential property and its entrance, I would consider them significant, in particular when considering that alternatives are available. I acknowledge that forestry activity is inevitable at this site and that noise and disturbance as a result of the thinning and clear felling activity may occur in the future and are to be expected from this forestry use on site, however, the vehicular activity in and out of the site within such close proximity to the appellants dwelling can be avoided. Therefore, pending detailed information as to how this activity can be mitigated and an assessment of alternatives available I would recommend retention permission be refused.

7.5. Appropriate Assessment

- 7.5.1. An appropriate assessment screening was carried out by Jennings O'Donovan & Partners Ltd. Consulting Engineers on behalf of the applicant and was submitted as part of the further information received 20th April 2020. A desktop study was carried out as part of the screening process and details of the Designated Sites within 15kms of the site – Table 4.2 of the report submitted refers. The nearest designated site is in excess of c. 11.9km from the appeal site. No pathways or potential pathways to any of the designated sites were found, the report therefore concludes that in the absence of such a pathway connecting the development site to any designated Natura 2000 site there would be no direct or indirect impact on any European site.
- 7.5.2. Therefore, having regard to the information submitted, the nature and scale of the proposed development and separation distance to the nearest European site, no Appropriate Assessment issues arise and it is not considered that the proposed development would be likely to have a significant effect individually or in combination with other plans or projects on a European site.

8.0 Recommendation

8.1. In accordance with the foregoing I recommend that permission should be refused, for the following reasons and considerations.

9.0 Reasons and Considerations

1. Having regard to the location of the proposed development in close proximity to the entrance of a residential property and to the lack of adequate consideration of alternatives, it is considered that the proposed development does not adhere to the standards outlined in the *Technical Standard for the design of Forest Entrances from Public Roads* produced by the Department of the Agriculture, Food and the Marine (DAFM) and Department of Transport, Tourism and Sport (DTTAS) (Issued July 2019) and would therefore be contrary to Policy 63 of the Leitrim County Development Plan 2015-2021. The proposed development would therefore be contrary to the proper planning and sustainable development of the area.
2. The proposed development, which is located on a local road would generate a significant volume of traffic, including a high number of movements by harvesting machinery and timber lorries entering and exiting the site. Adequate turning space has not been provided within the curtilage of the site and it is therefore considered that traffic turning movements generated by the proposed development would endanger public safety by reason of traffic hazard at this location. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.

Máire Daly
Planning Inspector

19th October 2020